

EC-2000-007
IV-D-086



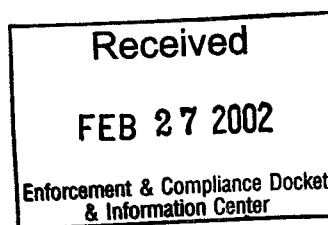
ATOFINA Chemicals, Inc.

February 27, 2002

UPS NEXT DAY DELIVERY

Enforcement and Compliance Office Docket and Information Center
U.S. Environmental Protection Agency (2201A)
Ariel Rios Building
1200 Pennsylvania Avenue, N.W.
Washington, DC 20460

Desk Officer for EPA
Office of Information and Regulatory Affairs,
Office of Management and Budget
725 17th St., N.W.
Washington, DC 20503



Subject: Electronic Reporting; Electronic Records (66 *Federal Register* 46162) [Docket #EC-2000-007]

Dear Sir:

ATOFINA Chemicals, Inc. (ATOFINA Chemicals) appreciates the opportunity to comment on the United States Environmental Protection Agency's (EPA's) proposed Cross-Media Electronic Reporting and Record-Keeping Rule (CROMERRR), that was published at 66 FR 46162-46195 on August 31, 2001.

ATOFINA Chemicals produces high-performance chemicals and polymers. Headquartered in Philadelphia, ATOFINA Chemicals employs 3,000 people, and reported sales in 2001 of \$1.4 billion.

ATOFINA Chemicals owns and operates manufacturing and other facilities that will become immediately subject to the CROMERRR rule, upon its promulgation, because we use electronic data systems extensively to obtain and establish "records" under various Title 40 regulations and because electronic reporting is used or required for many reports by our States. Additionally, virtually all "paper" records and reports involve use of personal computers (PCs) for their generation, storage or retrieval. Handwritten records, the only records apparently not subject to this proposal, are a minimal portion of the multitude of records we develop in meeting Title 40 requirements. Thus, this rule will not be optional for us, nor do we believe it will be optional for most of industry.

Introduction

ATOFINA Chemicals supports the voluntary use and continued improvement of electronic systems to replace paper ones. ATOFINA Chemicals is a member company of the American Chemistry Council (ACC) and, along with other ACC member companies, has helped pioneer electronic record keeping and reporting for a vast array of production, sales, marketing, distribution, and information reporting purposes, among others. As one example, within the last 3 months ATOFINA Chemicals has participated in beta-testing

others. As one example, within the last 3 months ATOFINA Chemicals has participated in beta-testing EPA's Central Data Exchange (CDX) – the Agency's electronic reporting site and EPA's Electronic Premanufacture Notice (PMN) form. We tested the ability to electronically submit Toxic Substances Control Act (TSCA) data on the CDX site.

Our facilities are subject to thousands of record keeping and reporting requirements under Title 40. Many of these individual requirements, such as the requirements for maintaining records of continuous monitor results, involve generation of thousands of records a year. As regulatory requirements have grown and computers have become ubiquitous, electronic data collection, record keeping and reporting systems have become the norm. Often the most efficient approach to satisfying Title 40 requirements was to use existing electronic systems. In these cases, the Title 40 records represent only a small portion of the total system records. Yet, any change to the environmental record keeping requirements will involve changing all systems.

Preliminary indications are that few, if any, of the systems on which environmental records are maintained could meet the requirements of CROMERRR, without major change or replacement. In many cases, new hardware and software would be needed. We anticipate the cost of changing these multiple systems and the associated operating risk could never be justified and so, in many cases, new, dedicated data systems would be required to address the proposed requirements.

ATOFINA Chemicals does not believe that the requirements of CROMERRR would improve in any measurable way its electronic record keeping and reporting systems. However, ATOFINA Chemicals believes that the rule would be extremely costly to implement. Because of the lack of any environmental benefit associated with the rule, and the tremendous economic impact of the rule, ATOFINA Chemicals believes that the proposed regulation should be withdrawn.

Comments on Proposal and ICR Claims

As mentioned above, ATOFINA Chemicals is a member company of ACC. ATOFINA Chemicals supports the comments that ACC is submitting on CROMERRR, as well as ACC's request that EPA withdraw the proposed regulation, and reassess the need for and potential impact of the rule. ATOFINA Chemicals would also like to share with EPA its chief company-specific concerns on CROMERRR. ATOFINA Chemicals primary concerns on the proposed rule are:

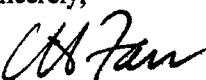
- Despite EPA's stated intent, the rule is not voluntary. The rule would apply whenever a facility opts to maintain electronic records, would apply to any electronic record, would be triggered by the use of any electronic instrument to generate, maintain, store or distribute records, and would apply irrespective of whether the data is printed out in a hard-copy form.
- The rule is costly. EPA has greatly underestimated the extent to which the rule would require system upgrades and modifications, the cost of those modifications, and the number of facilities that would be required to modify the systems.
- The rule is not practical. It would require significant modifications to each of the many existing electronic records generation and maintenance systems. The data archiving, migration and audit requirements alone would require a tremendous investment and would take many years to accomplish; there are no off-the-shelf upgrade packages to meet the proposed requirements.

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- The proposed rule raises several significant legal and policy questions. It also raises important questions about the degree to which it comports with regulatory law and policy regarding economically significant regulations.

In conclusion, based on the concerns addressed in these and the ACC comments, ATOFINA Chemicals believes EPA's best course of action is to withdraw the proposed rule, carefully evaluate whether there is need for a rule this broad in scope and effect, seriously assess the costs, and then, if necessary, re-propose the rule in light of the evaluations.

Sincerely,



Craig H. Farr, Ph.D.
Associate Director,
Product Stewardship and Toxicology

cc: Kathleen Roberts, American Chemistry Council